

**Zoning Public Hearing  
CITY OF AUSTIN  
RECOMMENDATION FOR COUNCIL ACTION**



**AGENDA ITEM NO.: Z-3  
AGENDA DATE: Thu 03/02/2006  
PAGE: 1 of 1**

**SUBJECT:** C14-05-0199 - Texan Market Store Car Wash - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 12195 Metric Boulevard (Walnut Creek Watershed) from neighborhood commercial (LR) district zoning to community commercial-conditional overlay (GR-CO) combining district zoning. Zoning and Platting Commission Recommendation: To grant community commercial-conditional overlay (GR-CO) combining district zoning with conditions. Applicant: LR Texas Investments LP (Bill Longshore). Agent: Smith-Western Engineering Inc. (Phil Smith). City Staff: Jorge E. Rousselin, 974-2975.

**REQUESTING** Neighborhood Planning  
**DEPARTMENT:** and Zoning

**DIRECTOR'S**  
**AUTHORIZATION:** Greg Guernsey

**ZONING REVIEW SHEET****CASE:** C14-05-0199**Z.A.P. DATE:** January 31, 2006**ADDRESS:** 12195 Metric Boulevard**OWNER:** LR Texas Investments LP  
(Bill Longshore)**AGENT:** Smith-Western Engineering  
(Phil Smith)**REZONING FROM:** LR (Neighborhood commercial)**TO:** GR (Community commercial)**AREA:** 1,609 square feet**SUMMARY ZONING AND PLATTING COMMISSION RECOMMENDATION:***January 31, 2006:*

**APPROVED GR-CO DISTRICT ZONING FOR THE AREA OF 5,750 SQUARE FEET; CAR WASH AS THE ONLY GR USE, ALL OTHER LR USES; 8-FEET MASONRY WALL CONSTRUCTED FROM THE EXISTING PAVEMENT SOUTH PAST THE NEW IMPROVEMENTS; PUBLIC RESTRICTIVE COVENANT FOR HOURS OF OPERATION FROM 6:00 A.M. TO 10:00 P.M., FOR THE CAR WASH ONLY. [K.JACKSON; M.HAWTHORNE 2<sup>ND</sup>] (8-0) J.GOHIL – ABSENT**

**Prohibited uses:**

- |  |                                 |
|--|---------------------------------|
| ▪ Automotive rentals                     | ▪ Hospital services (general)   |
| ▪ Automotive repair services             | ▪ Hospital services (general)   |
| ▪ Automotive sales                       | ▪ Hotel-motel                   |
| ▪ Bail bond services                     | ▪ Indoor entertainment          |
| ▪ Business or trade school               | ▪ Indoor sports and recreation  |
| ▪ Business support services              | ▪ Outdoor entertainment         |
| ▪ Commercial off-street parking          | ▪ Outdoor sports and recreation |
| ▪ Communications services                | ▪ Pawn shop services            |
| ▪ Drop-off recycling collection facility | ▪ Personal improvement services |
| ▪ Exterminating services                 | ▪ Research services             |
| ▪ Food preparation                       | ▪ Residential treatment         |
| ▪ Funeral services                       | ▪ Restaurant (General)          |
| ▪ General retail sales (General)         | ▪ Theater                       |

**SUMMARY STAFF RECOMMENDATION:**

Staff recommends community commercial (GR) district zoning with conditions. The conditions are subject to a public restrictive covenant addressing ingress/egress orientation of the proposed car wash facility away from the existing residential development to the east. Furthermore, the proposed rezoning area shall be a minimum of 5,750 square feet as per the site development standards of the GR zoning district.

**DEPARTMENT COMMENTS:**

The applicant agrees with the Zoning & Platting Commission recommendation. The subject rezoning area is a 1,609 square foot area within an existing site containing a convenience store zoned LR. There is an existing site plan for this property (SP- 95-0500C), which provides for 3,000 square feet of service station uses, along with associated parking and other improvements. The applicant proposes to rezone the property to community commercial (GR) district to allow for a 969.8 square foot Laser Car Wash facility. Access to the proposed car wash is from an existing driveway off Metric Boulevard.

Staff recommends community commercial (GR) district zoning with conditions. The conditions are subject to a public restrictive covenant addressing ingress/egress orientation of the proposed car wash facility away from the existing residential development to the east. The proposed development will be subject to compatibility standards along the eastern property line. Furthermore, the proposed rezoning area shall be a minimum of 5,750 square feet as per the site development standards of the GR zoning district. The recommendation is based on the following considerations:

- 1.) The North Lamar Area Study designates this site for commercial uses;
- 2.) The proposed land use is compatible with the existing commercial use on the site;
- 3.) The recommended reorientation of the proposed car wash facility diminish impact to the existing residences east of the subject site; and
- 4.) Established commercial uses along Metric Boulevard allow for a compatibility of commercial intensities and uses.

**EXISTING ZONING AND LAND USES:**

	<b>ZONING</b>	<b>LAND USES</b>
<i>Site</i>	LR	Convenience store
<i>North</i>	MF-3-CO	Apartments
<i>South</i>	LR / P	Undeveloped land
<i>East</i>	SF-3	Duplexes
<i>West</i>	LR / GR-CO	Retail center

**AREA STUDY:** North Lamar Area Study    **TIA:** Not required (See Transportation comments)

**WATERSHED:** Walnut Creek

**DESIRED DEVELOPMENT ZONE:** Yes

**CAPITOL VIEW CORRIDOR:** N/A

**HILL COUNTRY ROADWAY:** N/A

**NEIGHBORHOOD ORGANIZATIONS:**

64--River Oaks Lakes Estates Neighborhood  
 114--North Growth Corridor Alliance  
 480--Scofield Farms Residents Assn.  
 511--Austin Neighborhoods Council  
 742--Austin Independent School District

**SCHOOLS:**

Austin Independent School District

- Pillow Elementary School
- Burnet Middle School
- Anderson High School

**RELATED CASES:**

<b>NUMBER</b>	<b>REQUEST</b>	<b>COMMISSION</b>	<b>CITY COUNCIL</b>
C14-90-0083	Various Tracts assigning zoning for NCAGC MUD NO. 1 to be annexed under full purpose jurisdiction on December 31, 1992.	04/16/91: PC Recommendation of zoning for NCAGC MUD NO. 1 to be annexed under full purpose jurisdiction on December 31, 1992.	04/25/91: Approved Recommendation of zoning for NCAGC MUD NO. 1 to be annexed under full purpose jurisdiction on December 31, 1992.
SP-95-0500C	Site Plan Revision #1	Administrative release 11/25/96	N/A
SP-95-0500C	Site Plan Revision #2	Pending	N/A

**CASE HISTORIES:**

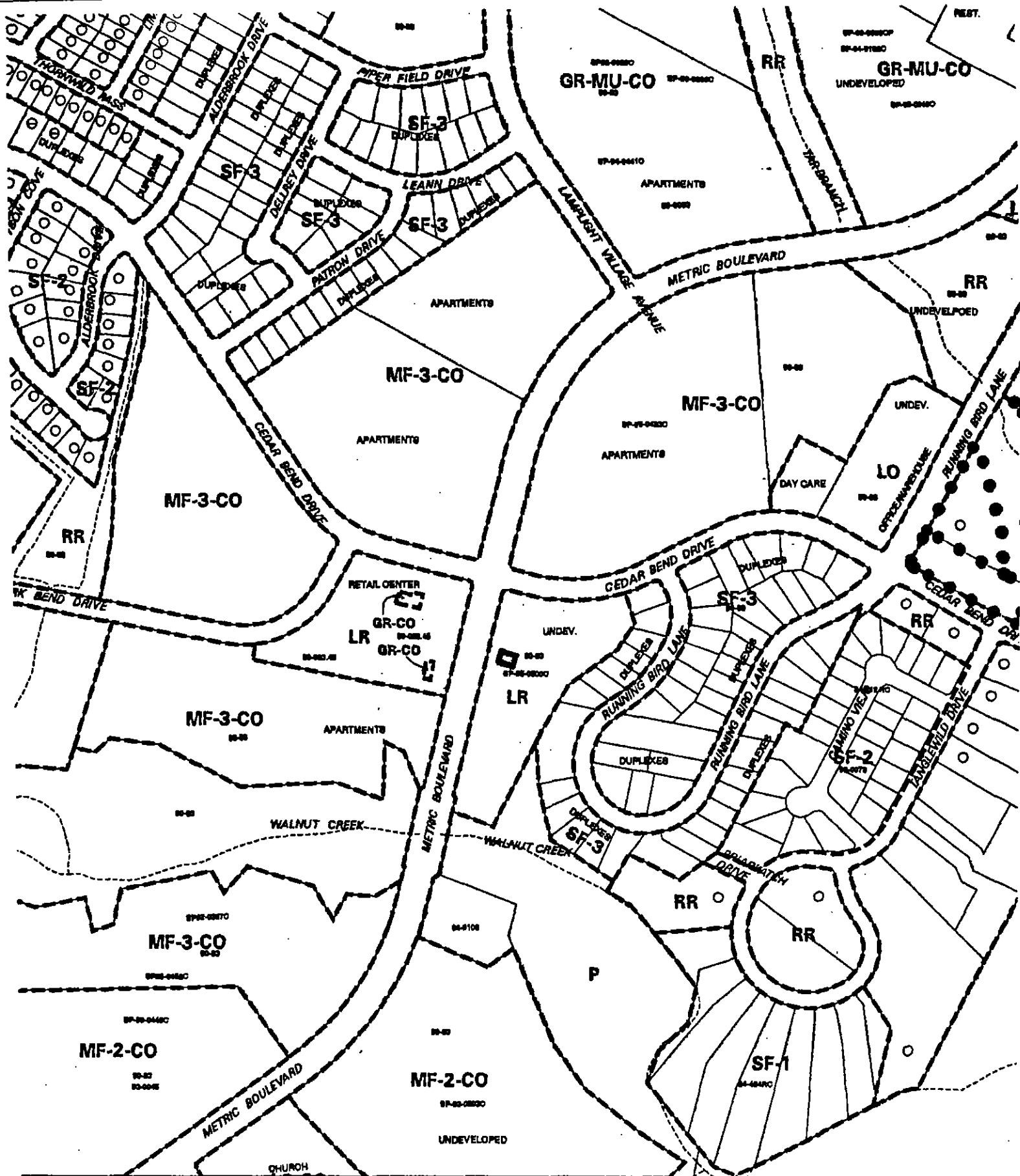
<b>NUMBER</b>	<b>REQUEST</b>	<b>COMMISSION</b>	<b>CITY COUNCIL</b>
C14-90-083.45	RR to LR	04/16/91: PC approved Staff recommendation of LR. (5-0)	02/13/92: Approved LR
C14-99-2067	NO & GR to GR-CO	01/18/00: PC Approved staff recommendation of (GR-CO) (9-0). Conditional Overlay: - 2,000 vehicle trip limitation; Prohibited uses: - Automotive Rentals; - Automotive Sales; - Business or trade school; - Drop-off Recycling Facility; - Funeral Services; - Indoor Entertainment; - Outdoor Entertainment; - Pawn Shop Services;	03/07/96: Approved recommendation of (GR-CO) (7-0) Conditional Overlay: - 2,000 vehicle trip limitation; Prohibited uses: - Automotive Rentals; - Automotive Sales; - Business or trade school; - Drop-off Recycling Facility; - Funeral Services; - Indoor Entertainment; - Outdoor Entertainment; - Pawn Shop Services;

		<ul style="list-style-type: none"> <li>- Research Services;</li> <li>- Theater;</li> <li>- Community Recreation (Public);</li> <li>- Restaurant (Drive-in, Fast Food);</li> <li>- Automotive Repair Services;</li> <li>- Automotive Washing (of any kind);</li> <li>- Commercial Off-street parking;</li> <li>- Exterminating Services;</li> <li>- Hotel-Motel;</li> <li>- Indoor Sports and Recreation;</li> <li>- Personal Improvement Services;</li> <li>- Restaurant (General);</li> <li>- Community Recreation (Private); and</li> <li>- Hospital Services (General)</li> </ul>	<ul style="list-style-type: none"> <li>- Research Services;</li> <li>- Theater;</li> <li>- Community Recreation (Public);</li> <li>- Restaurant (Drive-in, Fast Food);</li> <li>- Automotive Repair Services;</li> <li>- Automotive Washing (of any kind);</li> <li>- Commercial Off-street parking;</li> <li>- Exterminating Services;</li> <li>- Hotel-Motel;</li> <li>- Indoor Sports and Recreation;</li> <li>- Personal Improvement Services;</li> <li>- Restaurant (General);</li> <li>- Community Recreation (Private); and</li> <li>- Hospital Services (General)</li> </ul>
C14-05-0082	LR to GR-CO	<p>08/02/05: ZAP Approved Staff recommendation of GR-CO. (8-0)</p> <p>Conditional Overlay:</p> <ul style="list-style-type: none"> <li>- 4050 vehicle trip limitation</li> </ul> <p>Prohibited uses:</p> <ul style="list-style-type: none"> <li>- Automotive rental;</li> <li>- Automotive washing (of any type);</li> <li>- Exterminating Services;</li> <li>- Pawn Shop Services;</li> <li>- Guidance Services;</li> <li>- Transitional Housing;</li> <li>- Automotive sales;</li> <li>- Drop-off Recycling Facility;</li> <li>- Indoor Sports and Recreation;</li> <li>- Counseling Services; and</li> <li>- Residential Treatment</li> </ul>	<p>03/06/97: Approved recommendation of GR-CO. (7-0)</p> <p>Conditional Overlay:</p> <ul style="list-style-type: none"> <li>- 4050 vehicle trip limitation</li> </ul> <p>Prohibited uses:</p> <ul style="list-style-type: none"> <li>- Automotive rental;</li> <li>- Automotive washing (of any type);</li> <li>- Exterminating Services;</li> <li>- Pawn Shop Services;</li> <li>- Guidance Services;</li> <li>- Transitional Housing;</li> <li>- Automotive sales;</li> <li>- Drop-off Recycling Facility;</li> <li>- Indoor Sports and Recreation;</li> <li>- Counseling Services; and</li> <li>- Residential Treatment</li> </ul>

**ABUTTING STREETS:**

<b>NAME</b>	<b>ROW</b>	<b>PAVEMENT</b>	<b>CLASSIFICATION</b>	<b>CAPITAL METRO</b>	<b>SIDEWALKS</b>	<b>BICYCLE PLAN</b>
Metric Boulevard	100'	2@30'	Arterial	Yes	Yes	Yes
Cedar Bend	70'	44'	Collector	No	No	No

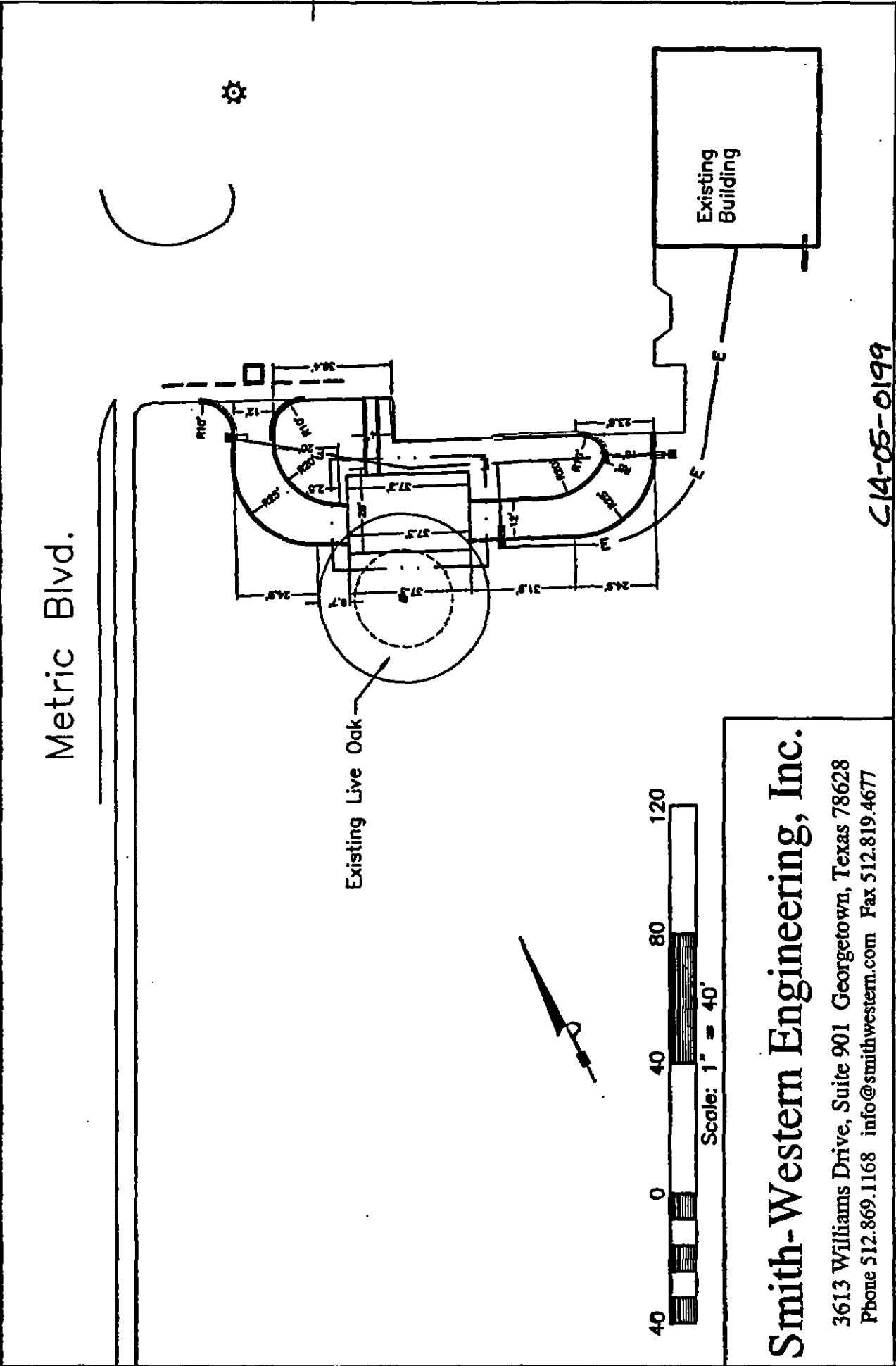
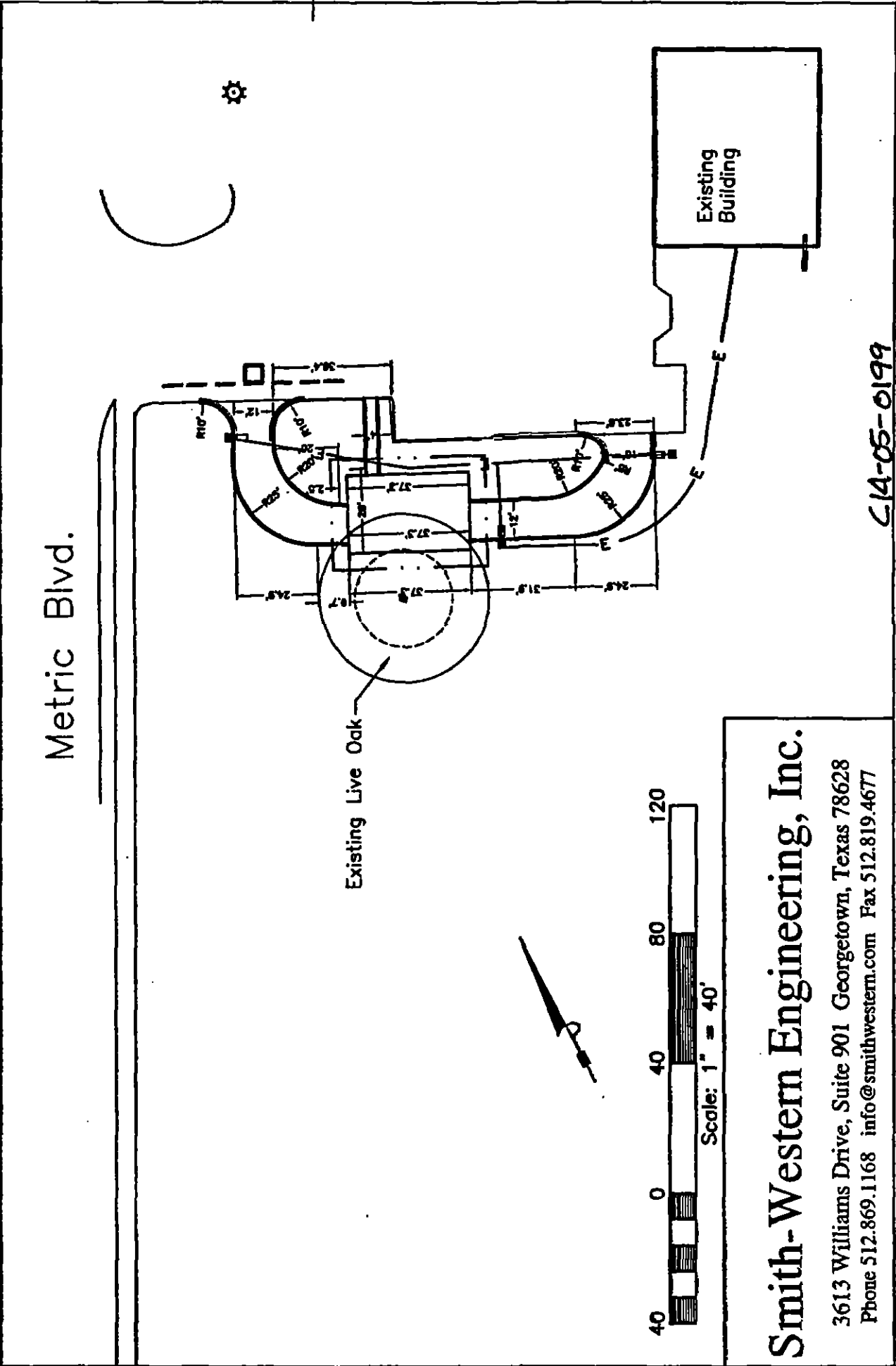
**CITY COUNCIL DATE:** March 2, 2006**ACTION:****ORDINANCE READINGS:** 1<sup>st</sup> 2<sup>nd</sup> 3<sup>rd</sup>**ORDINANCE NUMBER:****CASE MANAGER:** Jorge E. Rousselin, NPZD**PHONE:** 974-2975**E-MAIL:** [jorge.rousselin@ci.austin.tx.us](mailto:jorge.rousselin@ci.austin.tx.us)



 SUBJECT TRACT PENDING CASE ZONING BOUNDARY CASE MGR: J.ROUSSELIN " = 400'	<b>ZONING</b> <b>CASE #: C14-05-0199</b> <b>ADDRESS: 12195 METRIC BLVD</b> <b>SUBJECT AREA (acres): 4.750</b>		<b>CITY GRID REFERENCE NUMBER</b> <b>L34</b>
	<b>DATE: 05-11</b>		
	<b>INTLS: SM</b>		
	10 L		





[illegible][illegible]

## **STAFF RECOMMENDATION**

Staff recommends community commercial (GR) district zoning with conditions. The conditions are subject to a public restrictive covenant addressing ingress/egress orientation of the proposed car wash facility away from the existing residential development to the east. Furthermore, the proposed rezoning area shall be a minimum of 5,750 square feet as per the site development standards of the GR zoning district.

## **BASIS FOR RECOMMENDATION**

- 1. The proposed zoning should be consistent with the purpose statement of the district sought.***

Community commercial (GR) district is the designation for an office or other commercial use that serves neighborhood and community needs and that generally is accessible from major traffic ways.

The proposed rezoning meets the purpose statement set forth in the Land Development Code. The existing convenience store and proposed car wash facility will provide services to established residential land uses in the area. The site is adjacent to various commercial uses and is compatible with existing commercial uses along Metric Boulevard.

- 2. Zoning changes should promote an orderly and compatible relationship among land uses.***

Staff recommends GR with conditions based on the following considerations:

- 1.) The North Lamar Area Study designates this site for commercial uses;
- 2.) The proposed land use is compatible with the existing commercial use on the site;
- 3.) The recommended reorientation of the proposed car wash facility diminish impact to the existing residences east of the subject site; and
- 4.) Established commercial uses along Metric Boulevard allow for a compatibility of commercial intensities and uses.

## **EXISTING CONDITIONS**

### **Site Characteristics**

The subject rezoning area is a 1,609 square foot area within an existing site containing a convenience store zoned LR. There is an existing site plan for this property (SP- 95-0500C), which provides for 3,000 square feet of service station uses, along with associated parking and other improvements. Access to the site is from an existing driveway off Metric Boulevard.

**Transportation**

1. No additional right-of-way is needed at this time.
2. The trip generation under the requested zoning is estimated to be 488 trips per day, assuming that the site develops to the maximum intensity allowed under the zoning classification (without consideration of setbacks, environmental constraints, or other site characteristics).
3. A traffic impact analysis was not required for this case because the traffic generated by the proposed zoning does not exceed the threshold of 2,000 vehicle trips per day. [LDC, 25-6-113]

**Environmental and Impervious Cover**

1. The site is not located over the Edward's Aquifer Recharge Zone. The site is in the Walnut Creek Watershed of the Colorado River Basin, which is classified as a Suburban Watershed by Chapter 25-8 of the City's Land Development Code. Under current watershed regulations, development or redevelopment on this site will be subject to the following impervious cover limits:

<b><i>Development Classification</i></b>	<b><i>% of Net Site Area</i></b>	<b><i>% with Transfers</i></b>
<b>Single-Family (minimum lot size 5750 sq. ft.)</b>	<b>50%</b>	<b>60%</b>
<b>Other Single-Family or Duplex</b>	<b>55%</b>	<b>60%</b>
<b>Multifamily</b>	<b>60%</b>	<b>70%</b>
<b>Commercial</b>	<b>80%</b>	<b>90%</b>

2. In the Water Quality Transition Zones, impervious cover is limited to 30%.
3. According to flood plain maps, there is flood plain in, or within close proximity of, the project location. Based upon the close proximity of flood plain, offsite drainage should be calculated to determine whether transition zone exists within the project location. If transition zone is found to exist within the project area, allowable impervious cover within said zone shall be limited to 30%.
4. Standard landscaping and tree protection will be required in accordance with LDC 25-2 and 25-8 for all development and/or redevelopment.
5. At this time, site specific information is unavailable regarding existing trees and other vegetation, areas of steep slope, or other environmental features such as bluffs, springs, canyon rimrock, caves, sinkholes, and wetlands.
6. Under current watershed regulations, development or redevelopment on this site will be subject to the following water quality control requirements:

7. **Structural controls:** Sedimentation and filtration basins with increased capture volume and 2 year detention.
8. At this time, no information has been provided as to whether this property has any pre-existing approvals which preempt current water quality or Code requirements.

#### **Water and Wastewater**

1. The landowner intends to serve the site with City of Austin water and wastewater utilities. The landowner, at own expense, will be responsible for providing the water and wastewater utility improvements, system upgrades, offsite main extension, and utility adjustments. Also, the water and wastewater utility plan must be reviewed and approved by the Austin Water Utility. The plan must be in accordance with the City design criteria. The utility construction must be inspected by the City. The landowner must pay the associated City fee.

#### **Site Plan and Compatibility Standards**

1. There is an existing site plan for this property (SP- 95-0500C), which provides for 3,000 square feet of service station uses, along with associated parking and other improvements.
2. The site is subject to compatibility standards. Along the east property line, the following standards apply:
  - No structure may be built within 25 feet of the property line.
  - No structure in excess of two stories or 30 feet in height may be constructed within 50 feet of the property line.
  - No structure in excess of three stories or 40 feet in height may be constructed within 100 feet of the property line.
  - No parking or driveways are allowed within 25 feet of the property line.
  - In addition, a fence, berm, or dense vegetation must be provided to screen adjoining properties from views of parking, mechanical equipment, storage, and refuse collection.
  - Additional design regulations will be enforced at the time a site plan is submitted.

**PRESENTATION**  
**ZONING AND PLATTING COMMISSION MEETING**  
**JANUARY 31, 2006**

**ZONING CHANGE FOR PROPOSED DRIVE-THRU CAR WASH**

**TEXAN MARKETS**  
**12195 METRIC BLVD.**

**CURRENT ZONING**  
**PROPOSED ZONING**

**LR NEIGHBORHOOD COMMERCIAL**  
**GR COMMUNITY COMMERCIAL**

**BY**

**PHIL SMITH, P.E.**  
**SMITH-WESTERN ENGINEERING, INC.**

## **KEY ISSUES**

1. CAR WASH IS NOT NOISY – LESS NOISE THAN METRIC BLVD.
2. CAR WASH IS LOCATED 225' FROM RESIDENTIAL AREA
3. BUFFER BETWEEN CAR WASH AND RESIDENTIAL – 110' WOODED AREA AND CREEK AND 6' WOOD FENCE
4. BUFFER CAN NEVER BE DEVELOPED DUE TO CREEK
5. RE-ORIENTING CAR WASH TO N-S MAY RESULT IN LOSING TREES
6. RE-ORIENTING WILL SIGNIFICANTLY INCREASE IMPERVIOUS COVER
7. PREVAILING WINDS ARE IN N-S DIRECTION – WATER SPRAY ISSUES

Texan Markets - 12195 Metric Blvd.





3. Trees near proposed car wash – view to Northeast



4. Trees near proposed car wash – view to East.

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE REZONING AND CHANGING THE ZONING MAP FOR THE PROPERTY LOCATED AT 12195 METRIC BOULEVARD FROM NEIGHBORHOOD COMMERCIAL (LR) DISTRICT TO COMMUNITY COMMERCIAL-CONDITIONAL OVERLAY (GR-CO) COMBINING DISTRICT.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

**PART 1.** The zoning map established by Section 25-2-191 of the City Code is amended to change the base district from neighborhood commercial (LR) district to community commercial-conditional overlay (GR-CO) combining district on the property described in Zoning Case No. C14-05-0199, on file at the Neighborhood Planning and Zoning Department, as follows:

A 0.13 acre tract of land (5,850 square feet), more or less, out of Lot 1, Block A of the Village at Walnut Creek Phase 2 Section 11 Subdivision in Travis County, the tract of land being more particularly described by metes and bounds in Exhibit "A" incorporated into this ordinance (the "Property"),

locally known as 12195 Metric Boulevard, in the City of Austin, Travis County, Texas, and generally identified in the map attached as Exhibit "B".

**PART 2.** The Property within the boundaries of the conditional overlay combining district established by this ordinance is subject to the following conditions:

The following uses are prohibited uses of the Property:

Automotive rentals	Automotive repair services
Automotive sales	Bail bond services
Business or trade school	Business support services
Commercial off-street parking	Communications services
Drop-off recycling collection facility	Exterminating services
Food preparation	Funeral services
General retail sales (general)	Hospital services (general)
Hospital services (limited)	Hotel-motel
Indoor entertainment	Indoor sports and recreation
Outdoor entertainment	Outdoor sports and recreation
Pawn shop services	Personal improvement services
Research services	Residential treatment
Restaurant (general)	Theater

1  
2 Except as specifically restricted under this ordinance, the Property may be developed and  
3 used in accordance with the regulations established for the (GR) base district and other  
4 applicable requirements of the City Code.  
5

6 **PART 3.** This ordinance takes effect on \_\_\_\_\_, 2006.  
7  
8

9 **PASSED AND APPROVED**  
10

11 \_\_\_\_\_, 2006  
12  
13

§  
§  
§

Will Wynn  
Mayor

14  
15  
16  
17  
18 **APPROVED:** \_\_\_\_\_

David Allan Smith  
City Attorney

**ATTEST:** \_\_\_\_\_

Shirley A. Gentry  
City Clerk

**FIELD NOTES**

EXHIBIT 4

JOB NO: Z:\Projects\_Eng\2008\_PROJECTS\50309\_VILLAGE\_AT\_WALNUT\_CREEK\_2-11\DOCUMENTS\METES&BOUNDS\50309\_REZONING\_021006.doc  
DATE: February 10, 2008  
PAGE: 1 OF 2 (Exhibit Attached)

**0.13 ACRE (5850 sq. ft.)**

All that certain tract or parcel of land situated in Travis County, Texas and being a portion of Lot 1, Block "A" of the Village at Walnut Creek Phase 2, Section 11, a subdivision in Travis County, Texas, according to the map or plat thereof recorded in Volume 83, Pages 217D-218A, Plat Records of Travis County, Texas, and further described in metes and bounds as follows:

**BEGINNING** at a calculated point in the interior of said Lot 1 for the northwest corner of this tract from which an  $\frac{3}{4}$ " iron pin found in the west line of Metric Boulevard, a public road of varying right-of-way width, for the most westerly northwest corner of said Lot 1 bears N 07°55'58" E 181.27 feet;

**THENCE:** S 77°56'23" E 150.00 feet with the north line of this tract to a calculated point, for the northeast corner of this tract;

**THENCE:** S 12°03'37" W 39.00 feet with the east line of this tract to a calculated point, for the southeast corner of this tract;

**THENCE:** N 77°56'23" W 150.00 feet with the south line of this tract to a calculated point, for the southwest corner of this tract;

**THENCE:** N 12°03'37" E 39.00 feet with the west line of this tract to the Point of Beginning and containing 0.13 acre (5850 sq. ft.).

Bearings based on site plan information provided by the City of Austin, Texas, File No. SP-95-0500S, Date of Release - February 23, 1996.

This document was prepared under 22 TAC §583.21, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.

Castleberry Surveying, Ltd.  
3613 Williams Drive, Suite 903  
Georgetown, Texas 78626



*[Signature]*  
Clyde C. Castleberry, Jr.  
Registered Professional Land Surveyor No. 4835

CCC/adm/jto

**"EXHIBIT"**  
0.13 ACRE (8850 SQ.FT.) OUT OF LOT 1, BLOCK A, VILLAGE OF WALNUT CREEK PHASE TWO, SECTION ELEVEN, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN BOOK 83, PAGES 217D-218A, PLAT RECORDS OF TRAVIS COUNTY, TEXAS.



**CEDAR BEND DRIVE**  
(PAVED - 70' R.O.W.)

N 83°55'08" E  
22.94' TIE



SCALE: 1"=30'

BEARINGS BASED ON SITE PLAN  
INFORMATION PROVIDED BY THE CITY OF  
AUSTIN, TEXAS, FILE No. SP-85-0600C,  
DATE OF RELEASE - 02/23/98

**METRIC BLVD.**  
(PAVED - R.O.W. VARIES)

N 07°55'38" E 181.27' TIE

CONCRETE PARKING

0.13 ACRE  
8850 SQ. FT.

N 12°05'37" E  
39.00'

S 77°58'23" E  
150.00'

N 77°58'23" W  
150.00'

S 12°05'37" W  
39.00'

LEGEND	
●	1/2" IRON PIN FOUND
+	CALCULATED POINT
P.R.T.C.	PLAT RECORDS TRAVIS CO., TX

This document was prepared under 22 TAC §683.21, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.

FIELD NOTES ATTACHED

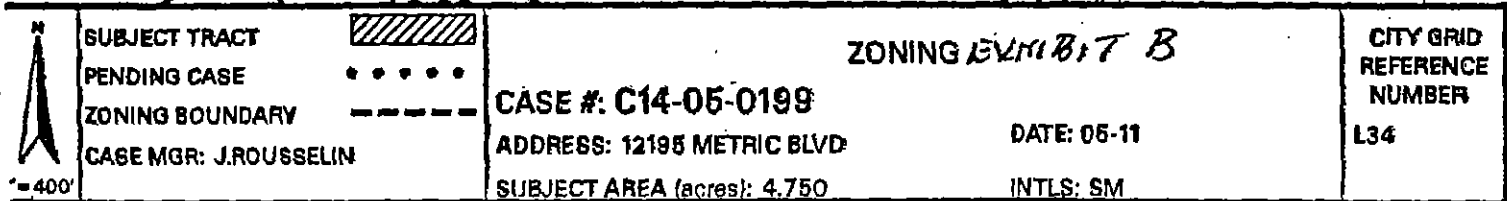


**Castleberry Surveying Ltd.**

3513 Williams Drive, Suite 903 - Georgetown, Texas 78626  
(512) 930-1800/(512) 930-9389 fax  
www.castleberry-surveying.com

SHEET

2 OF 2



**RESTRICTIVE COVENANT**

**OWNER:** Texan Markets, Inc., a Texas corporation

**ADDRESS:** 1100 Gattis School Rd., Suite 300-C, Round Rock, Texas 78664

**CONSIDERATION:** Ten and No/100 Dollars (\$10.00) and other good and valuable consideration paid by the City of Austin to the Owner, the receipt and sufficiency of which is acknowledged.

**PROPERTY:** A 0.13 acre tract of land (5850 square feet), more or less, out of Lot 1, Block A, Village at Walnut Creek Phase 2, Section 11 Subdivision, the tract of land being more particularly described by metes and bounds in Exhibit "A" attached and incorporated into this covenant.

WHEREAS, the Owner of the Property and the City of Austin have agreed that the Property should be impressed with certain covenants and restrictions;

NOW, THEREFORE, it is declared that the Owner of the Property, for the consideration, shall hold, sell and convey the Property, subject to the following covenants and restrictions impressed upon the Property by this restrictive covenant. These covenants and restrictions shall run with the land, and shall be binding on the Owner of the Property, its heirs, successors, and assigns.

1. Hours of operation for a business located on the Property are limited to the hours of 6:00 a.m. to 10:00 p.m.
2. An eight-foot high masonry wall shall be provided and maintained east of the improvements in a location beginning at the pavement area and continuing approximately 49 feet in a southerly direction as shown on the attached Exhibit "B".
3. If any person or entity shall violate or attempt to violate this agreement and covenant, it shall be lawful for the City of Austin to prosecute proceedings at law or in equity against such person or entity violating or attempting to violate such agreement or covenant, to prevent the person or entity from such actions, and to collect damages for such actions.
4. If any part of this agreement or covenant is declared invalid, by judgment or court order, the same shall in no way affect any of the other provisions of this agreement, and such remaining portion of this agreement shall remain in full effect.
5. If at any time the City of Austin fails to enforce this agreement, whether or not any violations of it are known, such failure shall not constitute a waiver or estoppel of the right to enforce it.
6. This agreement may be modified, amended, or terminated only by joint action of both (a) a majority of the members of the City Council of the City of Austin, and (b) by the owner(s) of the Property subject to the modification, amendment or termination at the time of such modification, amendment or termination.

EXECUTED this the \_\_\_\_\_ day of \_\_\_\_\_, 2006.

**OWNER:**

Texan Markets, Inc.,  
a Texas corporation

By: \_\_\_\_\_  
William Longshore,  
President

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Assistant City Attorney  
City of Austin

**THE STATE OF TEXAS   §**

**COUNTY OF TRAVIS   §**

This instrument was acknowledged before me on this the \_\_\_\_ day of \_\_\_\_\_, 2006, by William Longshore, President of Texan Markets, Inc., a Texas corporation, on behalf of the corporation.

\_\_\_\_\_  
Notary Public, State of Texas

**After Recording, Please Return to:**  
City of Austin  
Department of Law  
P. O. Box 1088  
Austin, Texas 78767  
Attention: Diana Minter, Legal Assistant

**FIELD NOTES**

217D-218A

JOB NO: Z:\Projects\_Eng\2005\_PROJECTS\50309\_VILLAGE\_AT\_WALNUT\_CREEK\_2-  
11\DOCUMENTS\METES&BOUNDS\50309\_REZONING\_021006.doc  
DATE: February 10, 2006  
PAGE: 1 OF 2 (Exhibit Attached)

**0.13 ACRE (5850 sq. ft)**

All that certain tract or parcel of land situated in Travis County, Texas and being a portion of Lot 1, Block "A" of the Village at Walnut Creek Phase 2, Section 11, a subdivision in Travis County, Texas, according to the map or plat thereof recorded in Volume 83, Pages 217D-218A, Plat Records of Travis County, Texas, and further described in metes and bounds as follows:

BEGINNING at a calculated point in the interior of said Lot 1 for the northwest corner of this tract, from which an  $\frac{1}{4}$ " iron pin found in the west line of Metric Boulevard, a public road of varying right-of-way width, for the most westerly northwest corner of said Lot 1 bears N 07°55'58" E 181.27 feet;

THENCE: S 77°55'23" E 150.00 feet with the north line of this tract to a calculated point, for the northeast corner of this tract;

THENCE: S 12°03'37" W 39.00 feet with the east line of this tract to a calculated point, for the southeast corner of this tract;

THENCE: N 77°55'23" W 150.00 feet with the south line of this tract to a calculated point, for the southwest corner of this tract;

THENCE: N 12°03'37" E 39.00 feet with the west line of this tract to the Point of Beginning and containing 0.13 acre (5850 sq. ft).

Bearings based on site plan information provided by the City of Austin, Texas, File No. SP-95-0500S, Date of Release - February 23, 1996.

This document was prepared under 22 TAC §583.21, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.

Castleberry Surveying, Ltd.  
3613 Williams Drive, Suite 903  
Georgetown, Texas 78626



*C. Castleberry Jr.*  
Clyde C. Castleberry Jr.  
Registered Professional Land Surveyor No. 4835

CCC/adm/jto

**"EXHIBIT"**  
0.13 ACRE (8850 SQ.FT.) OUT OF LOT 1, BLOCK A, VILLAGE OF WALNUT CREEK PHASE TWO, SECTION ELEVEN, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN BOOK 83, PAGES 217D-218A, PLAT RECORDS OF TRAVIS COUNTY, TEXAS.



**CEDAR BEND DRIVE**  
(PAVED - 70' R.O.W.)

N 53°55'08" E  
22.94' TIE



SCALE: 1"=30'

BEARINGS BASED ON SITE PLAN  
INFORMATION PROVIDED BY THE CITY OF  
AUSTIN, TEXAS, FILE NO. SP-95-08000,  
DATE OF RELEASE - 02/23/98

**METRIC BLVD.**  
(PAVED - R.O.W. VARIES)

N 07°55'58" E 181.27' TIE

CONCRETE PARKING

0.13 ACRE  
8850 SQ. FT.

N 12°03'37" E  
39.00'

S 77°58'23" E  
150.00'

N 77°58'23" W  
150.00'

S 12°03'37" W  
39.00'

LEGEND	
●	1/2" IRON PIN FOUND
+	CALCULATED POINT
P.R.T.C.	PLAT RECORDS TRAVIS CO., TX

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FIELD NOTES ATTACHED



**Castleberry Surveying Ltd.**

3613 Williams Drive, Suite 803 - Georgetown, Texas 78626  
(512) 830-1600/(512) 830-8388 fax  
www.castleberysurveying.com

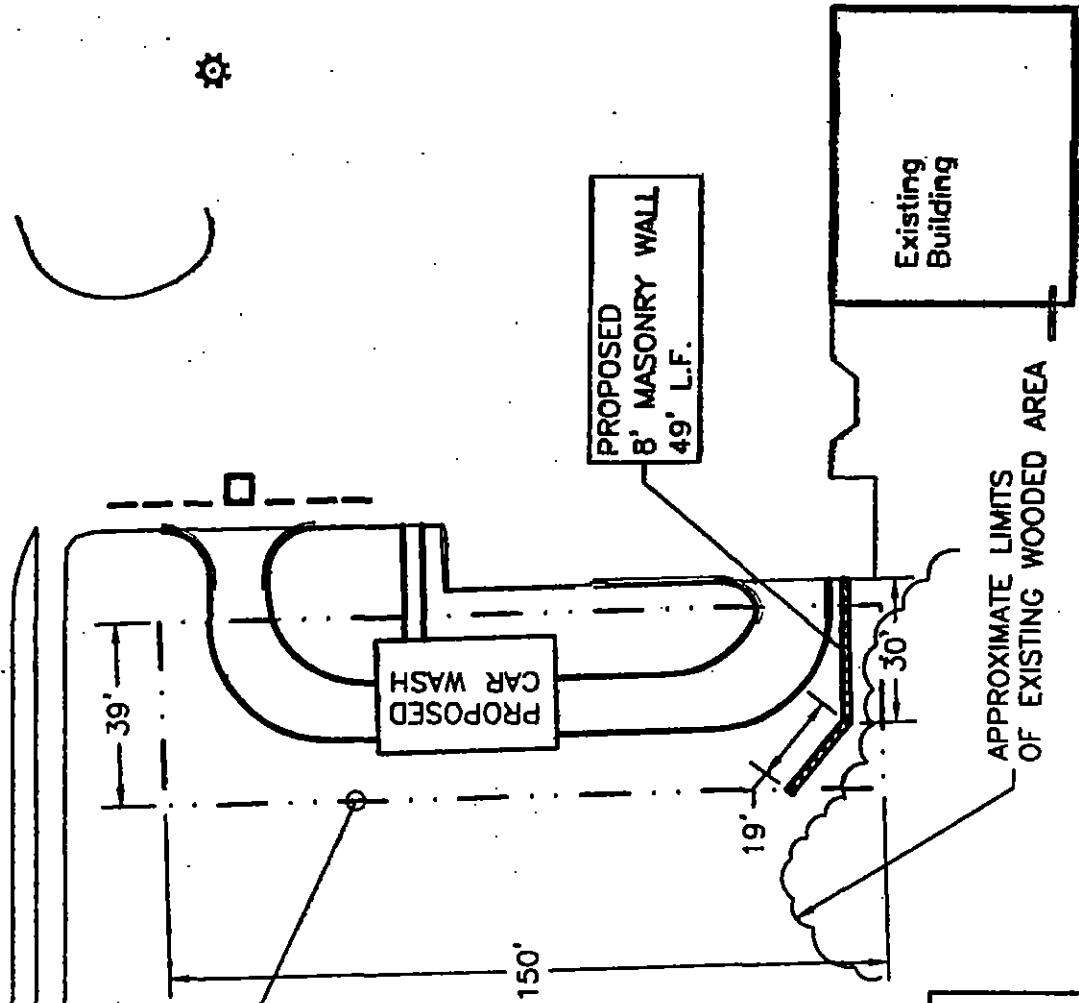
SHEET

2

OF

2

Metric Blvd.



AREA TO BE RE-ZONED  
FROM LR TO GR  
150'x39' (5,850 S.F.)

PROPOSED  
8' MASONRY WALL  
49' L.F.

PROPOSED  
CAR WASH

Existing  
Building

APPROXIMATE LIMITS  
OF EXISTING WOODED AREA



EXHIBIT B

Smith-Western Engineering, Inc.

3613 Williams Drive, Suite 901 Georgetown, Texas 78628  
Phone 512.869.1168 info@smithwestern.com Fax 512.819.4677